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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

35

Date:

APR 20 2012

Office: TEXAS SERVICE CENTER

FILE: [REDACTED]

IN RE:

Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink, appearing to read "Perry Rhew".
Perry Rhew

Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Texas Service Center. It then came before the Administrative Appeals Office (AAO) on appeal. On February 23, 2012, this office provided the petitioner with a Notice of Intent to Dismiss (NOID) in the record and afforded the petitioner an opportunity to provide evidence that might overcome this information.

The petitioner is a software consultant and IT solutions firm. It seeks to employ the beneficiary permanently in the United States as a business analyst pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. §1153(b)(2). As required by statute, a labor certification approved by the Department of Labor accompanied the petition. The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition. Therefore, the director denied the petition.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

On March 20, 2012, this office received a response from the petitioner in which counsel stated that the petitioner is in good standing but, stated on behalf of the petitioner, “Dibon does not wish to specifically support this I-140 that is subject to this Notice of Intent to Dismiss.” The petitioner is no longer pursuing the above noted I-140 application; therefore, the appeal will be dismissed as moot.

ORDER: The appeal is dismissed.